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TECH

FTC Investigates Broadcom Over Negotiations With Customers

Agency recently issued subpoenas in Broadcom antitrust probe

The campus of chip maker Broadcom in Irvine, Calif., last fall.

The campus of chip maker Broadcom in Irvine, Calif., last fall. PHOTO: REUTERS

By Dana Cimilluca, Brent Kendall and David Benoit

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The Federal Trade Commission is investigating whether semiconductor company Broadcom Ltd. engaged in anticompetitive tactics in negotiations with customers, people familiar with the matter said.

The probe, which has been going on for several months, gathered steam lately with subpoenas that seek an extensive amount of information, the people said. Broadcom has changed some of its contracts so that they now call for customers to buy a percentage of its output of a certain item rather than an absolute number, some of the people said. That could potentially raise concerns from antitrust enforcers worried that the approach could limit other customers' access to the product, the people said.

The scope of the FTC probe is limited and doesn't include Broadcom's wireless segment, according to some of the people. Broadcom is pursuing a hostile bid for rival smartphone chip maker Qualcomm Inc. QCOM -0.97% ▲

The investigation may not lead anywhere. The FTC conducts an array of probes and it isn't uncommon for the commission to decide that no enforcement action is warranted.

If the FTC were to bring a case, it would likely be focused on forcing changes in Broadcom's conduct since the commission generally doesn't have the authority to fine.

Regardless of the outcome, the probe is an unwelcome distraction for Broadcom as it pursues its bid for Qualcomm. Broadcom and its deal-hungry chief executive, Hock Tan, launched an effort to replace Qualcomm's board after Qualcomm rebuffed the $105 billion bid in November. A vote is scheduled for March.

Should Broadcom succeed in overcoming Qualcomm's resistance—a big if—it would need to win approval from antitrust enforcers around the world and in the U.S., where the FTC would likely be the agency to review the deal.

The deal was already expected to be a difficult sell to regulators and the probe could heighten concerns some Qualcomm customers have raised about a Broadcom takeover of the company.

Broadcom makes a variety of components used in smartphones and network systems. Combined with Qualcomm, it would form the third-biggest chip maker by revenue behind Intel Corp. and Samsung Electronics Co. It would have a dominant position in parts critical to smartphones and span markets from consumer devices to data centers.

Authorities in the U.S. and other countries already have had Qualcomm's patent-licensing business in their crosshairs. The FTC sued Qualcomm in January of last year alleging it engaged in unlawful tactics to maintain a monopoly on cellular-communications chips. Qualcomm has said the suit is based on flawed legal theory and misconceptions about its business.

Two big Chinese smartphone makers, which together generate more than 10% of Qualcomm's $22 billion in annual revenue, are against the possible deal, fearing it could lead to price increases, The Wall Street Journal reported last week. A third, Xiaomi Corp., also has reservations. Such opposition could make it more difficult for Broadcom to win over Chinese regulators.

Broadcom was formed when Avago Technologies Ltd. bought Broadcom Corp. in 2016 for $37 billion and kept the name.

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